

**SB0776**



**99TH GENERAL ASSEMBLY**

**State of Illinois**

**2015 and 2016**

**SB0776**

Introduced 2/4/2015, by Sen. Michael Connelly

**SYNOPSIS AS INTRODUCED:**

New Act

Creates the Student Online Personal Information Protection Act. Provides that the operator of an Internet website, online service, online application, or mobile application used primarily for K-12 school purposes and designed and marketed for K-12 school purposes shall not knowingly (1) engage in targeted advertising on the operator's site, service, or application or target advertising on any other site, service, or application when the targeting of the advertising is based upon any information that the operator has acquired because of the use of that operator's site, service, or application; (2) use information created or gathered by the operator's site, service, or application to amass a profile about a K-12 student except in furtherance of K-12 school purposes; (3) sell a student's information; or (4) disclose covered information, as defined in the Act, without the consent of a student's parent or legal guardian. Sets forth exceptions and other provisions concerning the construction and application of the Act. Effective January 1, 2016.

LRB099 03705 NHT 26058 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Student Online Personal Information Protection Act.

6 Section 5. Definitions. In this Act:

7 "Covered information" means personally identifiable  
8 information or materials, in any media or format, that meets  
9 any of the following:

10 (1) Is created or provided by a student or the  
11 student's parent or legal guardian to an operator in the  
12 course of the student's, parent's, or legal guardian's use  
13 of the operator's site, service, or application for K-12  
14 school purposes.

15 (2) Is created or provided by an employee or agent of a  
16 school or school district to an operator.

17 (3) Is gathered by an operator through the operation of  
18 a site, service, or application described in the definition  
19 of "operator" under this Section and is descriptive of a  
20 student or otherwise identifies a student, including  
21 without limitation information in the student's  
22 educational record or e-mail, first and last name, home  
23 address, telephone number, e-mail address, or other

1 information that allows physical or online contact,  
2 discipline records, test results, special education data,  
3 juvenile dependency records, grades, evaluations, criminal  
4 records, medical records, health records, social security  
5 number, biometric information, disabilities, socioeconomic  
6 information, food purchases, political affiliations,  
7 religious information, text messages, documents, student  
8 identifiers, search activity, photos, voice recordings, or  
9 geolocation information.

10 "K-12" means grades kindergarten through 12 in the public  
11 school system.

12 "K-12 school purposes" means K-12 purposes that  
13 customarily take place at the direction of a school, teacher,  
14 or school district or aid in the administration of school  
15 activities, including without limitation instruction in the  
16 classroom or at home, administrative activities, and  
17 collaboration between students, school personnel, or parents,  
18 or are for the use and benefit of a school.

19 "Online service" includes cloud computing services, which  
20 must comply with this Act if they otherwise meet the definition  
21 of an operator.

22 "Operator" means the operator of an Internet website,  
23 online service, online application, or mobile application with  
24 actual knowledge that the site, service, or application is used  
25 primarily for K-12 school purposes and was designed and  
26 marketed for K-12 school purposes.

1 "School" means a public school in this State.

2 Section 10. Prohibited activities and duties of operators.

3 (a) An operator shall not knowingly engage in any of the  
4 following activities with respect to its site, service, or  
5 application without the consent of a student's parent or legal  
6 guardian:

7 (1) Engage in targeted advertising on the operator's  
8 site, service, or application or target advertising on any  
9 other site, service, or application when the targeting of  
10 the advertising is based upon any information, including  
11 covered information and persistent unique identifiers,  
12 that the operator has acquired because of the use of that  
13 operator's site, service, or application described in the  
14 definition of "operator" under Section 5 of this Act.

15 (2) Use information, including persistent unique  
16 identifiers, created or gathered by the operator's site,  
17 service, or application, to amass a profile about a K-12  
18 student, except in furtherance of K-12 school purposes.

19 (3) Sell a student's information, including covered  
20 information. The prohibition under this subdivision (3)  
21 does not apply to the purchase, merger, or other type of  
22 acquisition of an operator by another entity, provided that  
23 the operator or successor entity continues to be subject to  
24 the provisions of this Act with respect to previously  
25 acquired student information.

1           (4) Disclose covered information, unless the  
2 disclosure is made:

3           (A) in furtherance of the K-12 school purposes of  
4 the site, service, or application, provided that the  
5 recipient of the covered information disclosed  
6 pursuant to this subdivision (4) (i) shall not further  
7 disclose the information unless done to allow or  
8 improve operability and functionality within that  
9 student's classroom or school and (ii) is legally  
10 required to comply with subsection (c) of this Section;

11           (B) to ensure legal and regulatory compliance;

12           (C) to respond to or participate in the judicial  
13 process;

14           (D) to protect the safety of users or others or the  
15 security of the site; or

16           (E) to a service provider, provided that the  
17 operator contractually (i) prohibits the service  
18 provider from using any covered information for any  
19 purpose other than providing the contracted service to  
20 or on behalf of the operator, (ii) prohibits the  
21 service provider from disclosing any covered  
22 information provided by the operator with subsequent  
23 third parties, and (iii) requires the service provider  
24 to implement and maintain reasonable security  
25 procedures and practices as provided in subsection (c)  
26 of this Section.

1 (b) Nothing in subsection (a) of this Section shall be  
2 construed to prohibit the operator's use of information for  
3 maintaining, developing, supporting, improving, or diagnosing  
4 the operator's site, service, or application.

5 (c) An operator shall do both of the following:

6 (1) Implement and maintain reasonable security  
7 procedures and practices appropriate to the nature of the  
8 covered information and protect that information from  
9 unauthorized access, destruction, use, modification, or  
10 disclosure.

11 (2) Delete a student's covered information if the  
12 school or school district requests deletion of data under  
13 the control of the school or school district.

14 (d) Notwithstanding subdivision (4) of subsection (a) of  
15 this Section, an operator may disclose covered information of a  
16 student, as long as subdivisions (1), (2), and (3) of  
17 subsection (a) of this Section are not violated, under the  
18 following circumstances:

19 (1) If other provisions of federal or State law require  
20 the operator to disclose the information and the operator  
21 complies with the requirements of federal and State law in  
22 protecting and disclosing that information.

23 (2) For legitimate research purposes (i) as required by  
24 State or federal law and subject to the restrictions under  
25 applicable State and federal law or (ii) as allowed by  
26 State or federal law and under the direction of a school or

1 school district or the State Board of Education if no  
2 covered information is used in furtherance of advertising  
3 or to amass a profile on the student for purposes other  
4 than K-12 school purposes.

5 (3) To a State or local educational agency, including  
6 schools and school districts, for K-12 school purposes, as  
7 permitted by State or federal law.

8 (e) Nothing in this Section prohibits an operator from  
9 using de-identified student covered information as follows:

10 (1) Within the operator's site, service, or  
11 application or other sites, services, or applications  
12 owned by the operator to improve educational products.

13 (2) To demonstrate the effectiveness of the operator's  
14 products or services, including in their marketing.

15 (f) Nothing in this Section prohibits an operator from  
16 sharing aggregated de-identified student covered information  
17 for the development and improvement of educational sites,  
18 services, or applications.

19 Section 15. Construction and application of Act.

20 (a) This Act shall not be construed to limit the authority  
21 of a law enforcement agency to obtain any content or  
22 information from an operator as authorized by law or pursuant  
23 to an order of a court of competent jurisdiction.

24 (b) This Act does not limit the ability of an operator to  
25 use student data, including covered information, for adaptive

1 learning or customized student learning purposes.

2 (c) This Act does not apply to general audience Internet  
3 websites, general audience online services, general audience  
4 online applications, or general audience mobile applications,  
5 even if login credentials created for an operator's site,  
6 service, or application may be used to access those general  
7 audience sites, services, or applications.

8 (d) This Act does not limit Internet service providers from  
9 providing Internet connectivity to schools or students and  
10 their families.

11 (e) This Act shall not be construed to prohibit an operator  
12 of an Internet website, online service, online application, or  
13 mobile application from marketing educational products  
14 directly to parents so long as the marketing did not result  
15 from the use of covered information obtained by the operator  
16 through the provision of services covered under this Act.

17 (f) This Act does not impose a duty upon a provider of an  
18 electronic store, a gateway, a marketplace, or other means of  
19 purchasing or downloading software or applications to review or  
20 enforce compliance of this Act on those applications or  
21 software.

22 (g) This Act does not impose a duty upon a provider of an  
23 interactive computer service, as defined in Section 230 of  
24 Title 47 of the United States Code, to review or enforce  
25 compliance with this Act by third-party content providers.

26 (h) This Act does not impede the ability of students to

1 download, export, or otherwise save or maintain their own  
2 student-created data or documents.

3 Section 97. Severability. The provisions of this Act are  
4 severable under Section 1.31 of the Statute on Statutes.

5 Section 99. Effective date. This Act takes effect January  
6 1, 2016.